

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

JOSEPH W. KOFOED,

Civil Case No. 09-1104-KI

Plaintiff,

OPINION AND ORDER

vs.

**EDISON PENSION TRUST, HANNAH
SUTTON c/o WILLIAM C. EARHART
CO., INC.,**

Defendants.

Joseph W. Kofoed
6005 N. Minnesota Avenue
Portland, Oregon 97217

Pro Se Plaintiff

Stephen H. Buckley
Paul G. Dodds

Brownstein, Rask, Sweeney, Kerr, Grim,
Desylvia & Hay, LLP
1200 SW Main Street
Portland, Oregon 97205-2040

Attorneys for Defendants Hannah Sutton and William C. Earhart Co., Inc.

KING, Judge:

Pro se plaintiff Joseph W. Kofoed filed this action seeking to back date his disability pension retirement to 20 months prior to August 1, 2000. Several motions are currently pending.

DISCUSSION

Defendants Hannah Sutton and William C. Earhart Co., Inc. ask the court to dismiss the Complaint against them for failure to state a claim. A motion to dismiss under Rule 12(b)(6) will be granted if plaintiff fails to allege the “grounds” of his “entitlement to relief.” Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 127 S. Ct. 1955, 1964-65 (2007) The Complaint, which is a single page in length, contains no allegations against these two defendants.

These two defendants have not filed an answer and may raise this issue in a motion. Because there are literally no allegations against Hannah Sutton and the William C. Earhart Co., I dismiss them from the Complaint.

In addition to responding to defendants’ motion to dismiss, plaintiff moved for leave to file a First Amended Complaint. Plaintiff’s proposed First Amended Complaint includes Hannah Sutton and the William C. Earhart Co., as well as Edison Pension Trust, as defendants and states a few rather sketchy allegations concerning them. I will allow the First Amended Complaint. Defendants may move against it if they wish but I suggest that they concentrate on moving this

case along to the stage where a summary judgment motion can resolve all issues, including whether any relief can be sought from these two defendants.

I deny plaintiff's request for reassignment to a magistrate judge. I do not routinely reassign my civil cases to magistrate judges.

CONCLUSION

The Motion to Dismiss of Defendants Hannah Sutton and William C. Earhart Co., Inc. (#5) is granted. Plaintiff's Motion for Leave to File First Amended Complaint (#16) is granted. Plaintiff's Motion to Show why this Action Should not be Dismissed (#17) is denied. This motions is actually a second memorandum in response to the motion to dismiss. I assure plaintiff that I reviewed and considered his arguments discussed in the document.

IT IS SO ORDERED.

Dated this 17th day of December, 2009.

/s/ Garr M. King
Garr M. King
United States District Judge